

TYPE OR PRINT
IN BLACK INK
(For instructions, see
booklet "How to File an
Application to Appropriate
Water in California")

California Environmental Protection Agency

State Water Resources Control Board
Division of Water Rights

P.O. Box 2000, Sacramento CA 95812-2000

(916) 341-5300 Fax (916) 341-5400

www.waterrights.ca.gov

APPLICATION NO. 031752

Compiled 10.04.2008

APPLICATION TO APPROPRIATE WATER

SECTION A: NOTICE INFORMATION

1. APPLICANT/AGENT

	APPLICANT	ASSIGNED AGENT (if any)
Name	Peter Martinelli	Barry H. Epstein
	Fresh Run Farm	Fitzgerald Abbott & Beardsley LLP
Mailing Address	P.O. Box 478	1221 Broadway, 21 st Floor
City, State & Zip	Bolinas CA 94924	Oakland CA 94612
Telephone	(415) 868-2313	(510) 451-3300
Fax	(415) 868-0534	(510) 451-1527
Email	Peter.Martinelli@sbcglobal.net	bepstein@fablaw.com

2. OWNERSHIP INFORMATION (Please check type of ownership.)

☐ Sole Owner ☐ Limited Liability Company (LLC) ☐ General Partnership*
☐ Limited Partnership* ☐ Business Trust ☐ Husband/Wife Co-Ownership
☐ Corporation ☐ Joint Venture ☒ Other Family Co-Ownership

Ownership

* Please provide a copy of your partnership agreement.

3. PROJECT DESCRIPTION (Provide a detailed description of your project, including, but not limited to, type of construction activity, area to be graded or excavated, and how the water will be used.)

This property consists of 79.4 and 159.2 acre parcels partially used for commercial vegetable production. Seasonal irrigation water is drawn from Pine Gulch Creek and used on a riparian basis. Domestic water is also withdrawn year-round under riparian right. This project proposes construction of 3.5 acre-foot Pond 1A and 17 acre-foot Pond 1B on site. Water diverted and stored in Pond 1B will be re-diverted to Pond 1A for distribution through the irrigation system. The project also proposes cessation of riparian irrigation diversions from July 1 to December 15, and use of appropriative water to fill the new reservoirs, ultimately reducing impacts on the salmonid population in Pine Gulch Creek. It has the support of California Department of Fish and Game, National Marine Fisheries, Trout Unlimited, Marin County, Point Reyes National Seashore, and others. Construction of the reservoirs will involve earthmoving equipment in off-channel upland areas of about 0.8 and 1.5 acres. About 0.25 acres of brush at each of the two pond sites will be removed.

For a detailed project description, please refer to the enclosed Mitigated Negative Declaration and accompanying Initial Study, Pine Gulch Creek Enhancement Project, adopted by Marin County November 15, 2007. See also Pine Gulch Creek Watershed, Water Availability Analysis and Cumulative Instream Impact Analysis (WAA/CFII) report by B. Ketcham, National Park Service, Nov. 3, 2005.

Per SWRCB staff suggestion, the project also includes addressing the uncertain regulatory status of the historic 3.0 acre-foot "Green Pond". It collects water not used for any consumptive purposes that may be jurisdictional.

DFG Rec'd.
\$ 0
(see A031749 for)
DFG Rec'd

App Fee: \$ 1202.50
Permit: \$ 850.00
Amt Rec'd \$ 7842.50
(combined checks)
For A031749, 50, 51, 52

4. PURPOSE OF USE, DIVERSION/STORAGE AMOUNT AND SEASON

a.

PURPOSE OF USE (Irrigation, Domestic, etc.)	Direct Diversion Quantity	Direct Diversion Quantity	Direct Diversion Season	Direct Diversion Season	Storage Amount	Storage Collection Season	Storage Collection Season
	RATE (CFS or gal/day)*	AMOUNT (Acre-feet per year)	Beginning Date (Mo. & Day)	Ending Date (Mo. & Day)	Acre -Feet per annum	Beginning Date (Mo. & Day)	Ending Date (Mo. & Day)
Irrigation 1A					3.5	Dec 15	Mar 31
Irrigation 1B					17.0	Dec 15	Mar 31
Recreation, Fire Suppression (Green Pond)					3.0	Nov 1	May 15
	Total afa=			Total afa=	23.5		

* If rate is less than 0.025 cfs, use gallons per day (gpd).

- b. Total combined amount taken by direct diversion and storage during any one year will be 23.5 acre feet.
c. Reservoir storage is onstream ☒ offstream underground (If underground storage, attach Form APP-UGSTOR.)
d. County in which diversion is located: Marin County in which water will be used: Marin

5. SOURCES AND POINTS OF DIVERSION/REDIVERSION

- a. Sources and Points of Diversion (POD)/Points of Rediversion (PORD):

 x POD #4 / PORD: Pine Gulch Creek, tributary to Bolinas Lagoon, thence Pacific Ocean.

 x POD #5 / PORD: Pine Gulch Creek, tributary to Bolinas Lagoon, thence Pacific Ocean.

 x POD Green Pond / PORD: Unnamed Seasonal tributary to Pine Gulch Creek, tributary to Bolinas Lagoon, thence Pacific Ocean.

 x POD / x PORD: Pond 1B, located in Unnamed Seasonal Tributary to Pine Gulch Creek, tributary to Bolinas Lagoon, thence Pacific Ocean.

XPORD 1A - Pine Gulch Creek trip to Bolinas Lagoon

- b. State Planar and Public Land Survey Coordinate Description:

POD/ PORD #	CALIFORNIA COORDINATES (NAD 27)	ZONE	POINT IS WITHIN 40-acre subdiv	SECTION	TOWN- SHIP	RANGE	BASE AND MERIDIAN
4	527530N 1364110E	3	NE ¼ SE ¼	14 (P)	1N	8W	MDM
5	528790N 1363490E	3	SW ¼ NE ¼	14 (P)	1N	8W	MDM
Green E	529240N 1363860E	3	NE ¼ NE ¼	14 (P)	1N	8W	MDM
Pond 1B	529460N 1363950E	3	NE ¼ NE ¼	14 (P)	1N	8W	MDM

- c. Name of the post office most often used by those living near the proposed point(s) of diversion: Bolinas 94924

6. WATER AVAILABILITY

- a. Have you attached a water availability analysis for this project? Yes No
If No, provide sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation:
b. Is your project located on a stream system declared to be fully appropriated by the State Water Resources Control Board during your proposed season of diversion? Yes No
c. In an average year does the stream dry up at any point downstream from your project? Yes No.
If yes, during which months? Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec
d. What alternate sources are available if a portion of your requested diversion season must be excluded because water is not available for appropriation? (e.g. percolating groundwater, purchased water, etc.) None are available.

7. PLACE OF USE

a.

USE IS WITHIN (40-acre subdivision)	SECTION*	TOWNSHIP	RANGE	BASE & MERIDIA N	IF IRRIGATED	
					Acres	Cultivated ? (Y/N)
NE ¼ of NE ¼	14 (P)	1N	8W	MDM	0.3	N
NW ¼ of NE ¼	14 (P)	1N	8W	MDM	2.4	Y
SW ¼ of NE ¼	14 (P)	1N	8W	MDM	1.1	Y
SE ¼ of NE ¼	14 (P)	1N	8W	MDM	12.6	Y
NE ¼ of SE ¼	14 (P)	1N	8W	MDM	6.5	Y
				Total:	22.9	

* Please indicate if section is projected with a "(P)" following the section number

b. Please provide the Assessor's Parcel Number(s) for the Place of Use: Marin County APN 188-120-29 (79.4 ac),
APN 188-090-15 (159.2 ac)

8. PROJECT SCHEDULE

a. Project is

☒ Proposed.

Year construction will begin: 2009

☐ Partially complete.

Extent of completion: _____

☐ Complete.

Year completed: _____

b. Year of first use: 2010

Year water will be used to the full extent intended: 2020

SECTION B: MISCELLANEOUS DIVERSION INFORMATION

1. JUSTIFICATION OF AMOUNT REQUESTED

a. ☒ IRRIGATION: Maximum area to be irrigated in any one year is 22.9 acres.

CROP	ACRES	METHOD OF IRRIGATION (Sprinklers, flooding, etc.)	WATER USE (Acre-feet/Yr)	NORMAL SEASON Beginning Date	NORMAL SEASON Ending Date
Vegetables	22.9	Sprinkler, drip	20.5	Apr 1	Oct 31

b. ☐ DOMESTIC: Number of residences to be served is _____. Separately owned? Yes ☐ No ☐
Total number of people to be served is _____. Estimated daily use per person is _____ gpd.
Total area of domestic lawns and gardens is _____ sq ft.
Incidental domestic uses are _____.

c. ☐ STOCKWATERING: Kind of stock: _____ Maximum number: _____.
Describe type of operation: _____.

d. ☒ RECREATIONAL: Type of recreation: ☒ Fishing ☐ Swimming ☐ Boating
☒ Other: Passive recreation

e. ☐ MUNICIPAL: (Estimated projected use)

POPULATION		MAXIMUM MONTH		ANNUAL USE		
PERIOD	5-year periods until use is completed	Average daily use (gal per capita)	Rate of diversion (cfs)	Average daily use (gal. per capita)	Acre-Foot (per capita)	Total Acre-Feet
Present						

Month of maximum use during year is _____. Month of minimum use during year is _____.

f. ☐ HEAT CONTROL: The total area to be heat protected is _____ net acres.

- Type of crop protected is _____.
 Rate at which water is applied to use is _____ gpm/acre.
 The heat protection season will begin about _____ (date) and end about _____ (date).
- g. FROST PROTECTION: The total area to be frost protected is _____ net acres.
 Type of crop protected is _____.
 Rate at which water is applied to use is _____ gpm/acre.
 The frost protection season will begin about _____ and end about _____.
- h. INDUSTRIAL: Type of industry is _____.
 Basis for determination of amount of water needed is: _____.
- i. MINING: The name of the claim is _____. Patented _____ Unpatented _____.
 The nature of the mine is _____. Mineral to be mined is _____.
 Type of milling process is _____.
 After use, the water will be discharged into _____ (name of stream) in
 40 acre subdivision: 1/4 of 1/4 of Section , T , R , B&M.
- j. POWER: The total head to be utilized is _____ feet. Maximum flow through the penstock is _____ cfs.
 Maximum theoretical horsepower capable of being generated by the works is _____
 (cfs * fall/8.8). Electrical capacity is _____ kW (HP*0.746*eff) at _____ % efficiency.
 After use, the water will be discharged into _____ (name of stream) in
 40 acre subdivision: 1/4 of 1/4 of Section , T , R , B&M.
- k. x FISH AND WILDLIFE PRESERVATION AND/OR ENHANCEMENT: List specific species and habitat
 type that will be preserved or enhanced in Item 7a of Section C. Pine Gulch Creek riparian habitat, native
 coho salmon, and other anadromous fish species will be enhanced due to cessation of riparian irrigation
 diversions during summer months made possible by implementation of this project.
- l. OTHER: Describe use: _____
 Basis for determination of amount of water needed is: _____.

2. DIVERSION AND DISTRIBUTION METHOD

- a. Diversion will be by gravity by means of: Green Pond Levee
- b. Diversion will be by pumping from Existing riparian pump stations #4 (lower) and #5 (upper).
 Pump discharge rates #4@60 gpm #5@ 24 gpm Horsepower 5, 2 hp. Pump efficiency: 85% est
- c. Conduit from diversion point to first lateral or to off stream storage reservoir:

CONDUIT (Pipe or Channel)	MATERIAL (Type of pipe or channel lining) (Indicate if pipe is buried or not)	CROSS SECTIONAL DIMENSION (Pipe diameter or ditch depth and top and bottom width)	LENGTH (Feet)	TOTAL OR Feet	LIFT FALL + or -	CAPACITY (Estimate)
Pipe #4	Buried PVC	4" diameter	2160	80	per	60 gpm
Pipe #5	Buried PVC	2.5" diameter	730	240	quad	24 gpm

- d. Storage Reservoirs: (For underground storage, complete and attach form APP-UGSTOR)

RESERVOIR NAME OR NUMBER	DAM				RESERVOIR		
	Vertical height from downstream toe of slope to spillway level (feet)	Construction material	Length (feet)	Freeboard dam height above spillway crest (feet)	Surface area when full (acres)	Capacity (acre-feet)	Maximum water depth (feet)
Pond 1A	13	earth	250	2	0.7	3.5 by design	12
Pond 1B	23	earth	340	2	1.3	17 by design	24
Green Pond	25	earth	190	2	0.4	3.0 estimated	12

- e. Outlet pipe: Complete for storage reservoirs having a capacity of 10 acre-feet or more.

RESERVOIR NAME OR NUMBER	Diameter of outlet pipe (inches)	Length of outlet pipe (feet)	FALL Vertical distance between entrance and exit of outlet pipe in feet.	HEAD Vertical distance from spillway to outlet pipe in reservoir in feet	Dead Storage below outlet pipe entrance (acre-feet)
Pond 1A	4 in.	100	-2	13	0.5
Pond 1B	6 in	150	-2	23	0.5

- f. If water will be stored and the reservoir is not at the point of diversion, the maximum rate of diversion to offstream storage will be 60 and 24 gpm. Diversion to offstream storage will be made by: Pumping x Gravity

3. CONSERVATION AND MONITORING

- a. What methods will you use to conserve water? Explain. Drip irrigation where feasible; use at agronomic rates, irrigation scheduling and management systems.
- b. How will you monitor your diversion to be sure you are within the limits of your water right and you are not wasting water? Weir ☒ Meter Periodic sampling ☒ Other Storage matches water right

4. RIGHT OF ACCESS

- a. Does applicant own the land where water will be diverted, transported, and used? ☒ Yes No.
If No, I Do Do Not have a recorded easement or written authorization allowing me access.
- b. List the names and mailing address of all affected landowners and state what steps are being taken to obtain access:

5. EXISTING WATER RIGHTS AND RELATED FILINGS

- a. Do you claim an existing right for the use of all or part of the water sought by this application? ☒ Yes No
If Yes, please specify: ☒ Riparian Pre-1914 Registration Permit License
 Percolating groundwater Adjudicated ☒ Other non-jurisdiction sheet flow
- b. For each existing right claimed, state the source, year of first use, purpose, season and location of the point of diversion (to within quarter quarter section). Include number of registration, permit, license, or statement of water diversion and use if applicable.

Nature of Right (Riparian, appropriative, groundwater)	Year of First Use	Purpose of use made in recent years including amount, if known	Season of Use	Source	Location of Point of Diversion
Non-jurisdictional sheet flow (e) Green Pond	before 1950's	Passive Recreation Non-consumptive uses	Year round	Sheet flow runoff	529240N 1363860E
Riparian	before 1950's	Truck Crops 1.1 acre feet 28.0 acre feet	12/15-3/15 3/16-12/14	Pine Gulch Creek	POD #4 527530N 1364110E POD #5 528790N 1363490E

Northings and Eastings per corrected submeter GPS data collected in 1927 US State Plane California Zone 3 coordinates, NADCON datum, US Survey Feet.

- c. List any related applications, registrations, permits, or licenses located in the proposed place of use or that utilize the same point(s) of diversion.

6. OTHER SOURCES OF WATER

Are you presently using, or do you intend to use, purchased water or water supplied by contract in connection with this project? Yes ☒ No. If yes, please explain:

7. MAP REQUIREMENTS

The Division cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section and quarter/quarter section of (1) the proposed points of diversion and (2) the place of use. A copy of a USGS quadrangle/topographic map of your project area is preferred, and can be obtained from sporting goods stores or through the internet at <http://topomaps.usgs.gov>. A certified engineering map is required when (1) appropriating more than 3 cfs by direct diversion, (2) constructing a dam which will be under the jurisdiction of the Division of Safety of Dams, (3) creating a reservoir with a surface area in excess of 10 acres or (4) appropriating more than 1000 acre-feet per annum by underground storage. See the instruction booklet for more information.

SECTION C: ENVIRONMENTAL INFORMATION

Note: Before a water right permit may be issued for your project, the State Water Resources Control Board (SWRCB) must consider the information contained in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA). This form is not a CEQA document. If a CEQA document has not yet been prepared for your project, a determination must be made of who is responsible for its preparation. If the SWRCB is determined to be responsible for preparing the CEQA document, the applicant will be required to pay all costs associated with the environmental evaluation and preparation of the required documents. Please answer the following questions to the best of your ability and submit with this application any studies that have been conducted regarding the environmental evaluation of your project.

1. COUNTY PERMITS

- a. Contact your County planning or public works department and provide the following information:

Person contacted: Jeremy Tejrjian, Planner Date of contact: 2003 - present

Department: Marin County Community Development Agency - Planning Telephone: 415.499-3798

County Zoning Designation: C-APZ-60

Are any county permits required for your project? ☒ YES ☐ NO. If YES, check appropriate box below:

☐ Grading permit ☐ Use permit ☐ Watercourse
☐ Change of zoning ☐ General plan change ☐ Obstruction permit
☒ Other: Coastal Permit (CP03-4); Design Review Clearance (DC03-24)

- b. Have you obtained any of the required permits described above? ☒ YES ☐ NO

If YES, provide a complete copy of each permit obtained. _____

2. STATE/FEDERAL PERMITS AND REQUIREMENTS

- a. Check any additional state or federal permits required for your project:

☐ Federal Energy Reg Com ☐ U.S. Forest Service ☐ U.S. Bureau of Land Management
☒ U.S. Army Corps of Engrs ☐ U.S. Natural Resource Cons Svc ☒ Calif. Dept of Fish and Game
☐ State Lands Commission ☐ Calif. Dept. of Water Resources (Div. of Safety of Dams)
☐ Calif. Coastal Commission ☐ State Reclamation Board ☒ Other: US Fish/Wildlife
☒ Calif Reg. Water Quality Control Board – SF Bay Region

- b. For each agency from which a permit is required, provide the following information:

AGENCY	PERMIT TYPE	PERSON(S) CONTACTED	CONTACT DATE	TELEPHONE NO.
US Fish & Wildlife	Safe Harbor Agr.	Rick Kuyper	Ongoing	(916) 414-6562
CDFG	Stream Alt Agr.	Region III	Ongoing	(707) 944-5562
US Army Corps	Sec 404	Mike D'Avignon	March 22, 2006	(415) 503-6773
CRWQCB-SFBR	Sec 401			

- c. Does your proposed project involve any construction or grading-related activity that has significantly altered or would significantly alter the bed, bank, or riparian habitat of any stream or lake? ☐ YES ☒ NO

If YES, explain: _____

- d. Have you contacted the California Department of Fish and Game concerning your project? ☒ YES ☐ NO

If YES, name and telephone number of contact: Jeremy Sarrow, Environmental Scientist (707) 944-5573

3. ENVIRONMENTAL DOCUMENTS

- a. Has any California public agency prepared an environmental document for your project? ☒ YES ☐ NO
- b. If YES, submit a copy of the latest environmental document(s) prepared, including a copy of the notice of determination adopted by the California public agency. Public agency: County of Marin

- Mitigated Negative Declaration and accompanying Initial Study Pine Gulch Creek Enhancement Project (Martinelli, Weber, New Land Fund Coastal Permit 03-4 & Design Review Clearance 03-24) Adopted by Marin County November 15, 2007
- Biological Assessment, Pine Gulch Creek Watershed Enhancement Project Huffman-Broadway Group, Inc. April 2007.
- Pine Gulch Watershed Water Availability and Instream Flow Analysis B. Ketcham, Hydrologist. Pt. Reyes National Seashore, Point Reyes Station CA 94956. Oct. 2003
- A Cultural Resources Evaluation of the Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County Archaeological Resource Service. 2001.
- A Cultural Resources Evaluation of Three Additional Pond Sites, Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County Archaeological Resource Service. 2003.

- c. If NO, check the appropriate box and explain below, if necessary:

- ☐ The applicant is a California public agency and will be preparing the environmental document.*
- ☐ I expect that the SWRCB will be preparing the environmental document.**
- ☐ I expect that a California public agency other than the State Water Resources Control Board will be preparing the environmental document.* Public agency: County of Marin

- * Note: When completed, submit a copy of the final environmental document (including notice of determination) or notice of exemption to the SWRCB, Division of Water Rights. Processing of your petition cannot proceed until these documents are submitted.
- ** Note: CEQA requires that the SWRCB, as Lead Agency, prepare the environmental document. The information contained in the environmental document must be developed by the applicant and at the applicant's expense under the direction of the SWRCB, Division of Water Rights.

4. WASTE/WASTEWATER

- a. Will your project, during construction or operation, (1) generate waste or wastewater containing such things as sewage, industrial chemicals, metals, or agricultural chemicals, or (2) cause erosion, turbidity or sedimentation? ☐ YES ☒ NO

If YES, or you are unsure of your answer, explain below and contact your local Regional Water Quality Control Board for the following information (See instruction booklet for address and telephone no.):

- b. Will a waste discharge permit be required for your project? ☐ YES ☒ NO
Person contacted: _____ Date of contact: _____
- c. What method of treatment and disposal will be used? _____

5. ARCHEOLOGY

- a. Have any archeological reports been prepared on this project? ☒ YES ☐ NO
- b. Will you be preparing an archeological report to satisfy another public agency? ☒ YES ☐ NO
- c. Do you know of any archeological or historic sites located within the general project area? ☐ YES ☒ NO
If YES, explain: Literature review and field investigation summarized in the 2001 and 2003 reports A Cultural Resources Evaluation of the Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County and A Cultural Resources Evaluation of Three Additional Pond Sites, Pine Gulch Creek Watershed Enhancement Project, Agricultural Irrigation Storage, Bolinas, Marin County were used to identify known or suspected archaeological or historic sites in the general project area, which were then completely avoided in project scoping and development.

6. ENVIRONMENTAL SETTING

Attach **three complete sets of color photographs**, clearly dated and labeled, showing the vegetation that exists at the following three locations. For time extension petitions, the photographs should document only those areas of the project that will be impacted during the requested extension period.

- ☐ Along the stream channel immediately downstream from the proposed point(s) of diversion.
- ☐ Along the stream channel immediately upstream from the proposed point(s) of diversion.
- ☐ At the place(s) where the water is to be used.


SECTION D: SUBMITTAL FEES

Calculate your application filing fee using the "Water Right Fee Schedule Summary" that was enclosed in the application packet. The "Water Right Fee Schedule Summary" can also be viewed at the Division of Water Rights' website (www.waterrights.ca.gov).

A check for the application filing fee, payable to the "Division of Water Rights" and an \$850 check for the Streamflow Protection Standards review fee [Pub. Resources Code S 10005(a)], payable to the "California Department of Fish and Game", must accompany this application. All applicable fees are required at the time of filing. Your application will be returned to you if it is not accompanied by all required fees.

SECTION E: DECLARATION AND SIGNATURE

I declare under penalty of perjury that all information provided true and correct to the best of my knowledge and belief. I authorize my agent, if I have designated one above, to act on my behalf regarding this water right application.



Signature of Applicant
Peter Martinelli

OWNER

Title or Relationship

3-7-09

Date

Signature of Co-Applicant (if any)

Title or Relationship

Date

APPLICATION TO APPROPRIATE WATER – CHECKLIST

Before you submit your application, be sure to:

- ☐ Answer each question completely in Sections A, B, and C.
- ☐ Number and include all necessary attachments.
- ☐ Include a legible map that meets the requirements discussed in the instruction booklet (Item B6).
- ☐ Include the Water Availability Analysis or sufficient information to demonstrate that there is reasonable likelihood that unappropriated water is available for the proposed appropriation (Item A6).
- ☐ Include three complete sets of color photographs of the project site ((Item C6).
- ☐ Enclose a check for the required fee, payable to the Division of Water Rights, as specified in Section D.
- ☐ Enclose a \$850 check for the Streamflow Protection Standards review fee, payable to the Department of Fish and Game, as specified in Section D.
- ☐ Sign and date the application in Section E.

Send the original and one copy of the entire application to: